

IC 34-28

**ARTICLE 28. SPECIAL PROCEEDINGS:
MISCELLANEOUS CIVIL PROCEEDINGS AND
REMEDIES**

IC 34-28-1

Chapter 1. Birth: Establishing Public Record of Time and Place

IC 34-28-1-1

Application of resident; procedure

Sec. 1. (a) This section applies to a person who is a resident of Indiana.

(b) To establish a public record of the time and place of a person's birth the person must:

- (1) have been a bona fide resident, for more than six (6) months, of the county where the application is filed; and
- (2) file a verified application and petition in the circuit or superior court of the county.

(c) The circuit court, the superior court, or the judge of the circuit or superior court shall hear and determine the matter set out in the application and petition, without the intervention of a jury.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-2

Application of nonresident; procedure

Sec. 2. (a) This section applies to a person who:

- (1) was born in Indiana; and
- (2) is not a resident of Indiana at the time of the application.

(b) The person may file a verified application in the circuit or superior court of the county of the person's birth for an order to establish a public record of the time and place of the birth of the applicant.

(c) The court or the judge shall hear and determine the matter set out in the application and petition without the intervention of a jury.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-3

Clerk of court to provide forms for petition

Sec. 3. The clerk of the court shall provide the forms for the petition in the same manner as other forms are provided for by law.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-4

Publication of notice of application; form

Sec. 4. (a) This section applies to any person, resident or nonresident, who has filed an application in any court as provided in this chapter.

(b) Except as provided in subsection (c), the applicant shall give

notice of the application by one (1) insertion in a qualified newspaper of general circulation, printed and published in the county where the application is filed.

(c) If no newspaper is published in the county where the application is filed, the applicant shall give notice in the closest newspaper printed and published in an adjoining county.

(d) The notice must be in the following form:

Birth Certificate

Notice is given that _____ has filed a petition in the _____ Court of _____ County, Indiana, to have the time and place of his (her) birth determined. This petition is set for hearing on the _____ day of _____, _____.

Clerk of the _____ Court.

(e) The notice shall be published at a cost not to exceed one dollar and fifty cents (\$1.50), and if the applicant cannot publish the notice for that amount, notice shall be given by posting the notice at a door of the courthouse. The clerk of the court shall post the notice and file proof of its posting.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-5

Hearing and determination on application

Sec. 5. Upon the filing of proof of notice by publication or posting, as provided in section 4 of this chapter, the court or judge may hear the application and enter a determination of status of the applicant as to time and place of birth.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-6

Jurisdictional requirements; supporting testimony of two freeholders

Sec. 6. Before the court or judge has jurisdiction to determine the application, the applicant must demonstrate:

(1) that at least two (2) freeholders, either of the county of the residence of the applicant or of the county of birth have:

(A) knowledge of the facts stated in the application; or

(B) reason to believe that the facts are true; and

(2) to the satisfaction of the court or the judge that the applicant meets the qualifications provided in this chapter for the filing of the application.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-7

Appearance of applicant; conduct of hearing; finality of determination; rehearing

Sec. 7. (a) The applicant may appear:

(1) in person; and

(2) with or without an attorney.

(b) If the applicant appears without an attorney, the judge shall

conduct the hearing of the applicant and the examination of the witnesses.

(c) The judge may continue the hearing from time to time.

(d) Except as provided in subsection (e), the determination of the court or the judge, after conclusion of the hearing, is final.

(e) Upon petition for sufficient cause, if the court or judge sets aside the former order and assigns the application for rehearing and determination, the determination of the court on rehearing is final.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-8

Copy of court decree as evidence

Sec. 8. A copy of the decree of the court or judge certified under the seal of the clerk of the court is prima facie evidence in any court, board, council, or commission of Indiana to show time and place of birth of the person named in the decree.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-9

Index record; copy of judgment and decree to vital records division

Sec. 9. (a) The clerk of the court shall:

(1) make and keep an index record to be known as the birth certificate record; and

(2) enter the judgment and decree into the proper index of the record.

(b) The clerk shall also send a certified copy of the judgment and decree to the division of vital records, state department of health, Indianapolis, Indiana. The judgment and decree shall be considered to be a delayed certificate of birth under IC 16-37-2.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-10

Collection of fee

Sec. 10. The clerk shall collect the fee provided in IC 33-37-4-4. However, a fee may not be collected if the petitioner is a resident of Indiana.

As added by P.L.1-1998, SEC.24. Amended by P.L.98-2004, SEC.122.

IC 34-28-1-11

Dismissal of application for want of prosecution

Sec. 11. Where the applicant fails to prosecute the cause for one hundred twenty (120) days after filing the application, the court or judge shall dismiss the application for want of prosecution, and the clerk of the circuit court shall destroy the application immediately following the dismissal.

As added by P.L.1-1998, SEC.24.